IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Crl.MC.No. 3618 of 2007()

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LP.2/2005 of JUDL.MAGISTRATE OF FIRST CLASS, KOLENCHERRY

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PETITIONER/ACCUSED:

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T.V.SIVASANKARAN, AGED 40
S/O.VASU NAIR, MOKAYIL HOUSE,
AMBALAMEDU, PUTHENCRUZ VILLAGE,
KUNNATHUNADU TALUK.

BY ADV. SRI.T.KURIAKOSE PETER

RESPONDENTS/COMPLAINANT:

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1. SALILAN, AGED ABOUT 40, SECRETARY,
S.N.D.P. AMBALAMEDU BRANCH,
KUNNATHUNADU TALUK.

2. STATE OF KERALA REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON / / , THE COURT ON 03/12/2007 PASSED THE FOLLOWING:

**R.BASANT, J.**

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Crl.M.C.No.3618 of 2007

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Dated this the 3rd day of December 2007

**O R D E R**

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. He has not entered appearance so far. Reckoning him as an absconding accused, the case has been transferred to the list of long pending cases and coercive processes have been issued against the petitioner. The petitioner finds such coercive processes chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

**(R.BASANT, JUDGE)**

jsr

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007